

AMENDED IN ASSEMBLY JUNE 15, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MAY 13, 2004

AMENDED IN SENATE APRIL 26, 2004

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1462

Introduced by Senator Kuehl
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Koretz)

February 19, 2004

An act to amend Sections 65352, 65404, 65940, and 65944 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Kuehl. Military readiness activities: special use airspace.

(1) The Planning and Zoning Law requires the planning agency prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, to refer the proposed action to specified entities, including, among other entities, any elementary, high school, or unified school district within the area covered by the proposed action and any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

The bill would include among those entities the branches of the United States Armed Forces when the proposed action lies within *1,000*

feet of a military impact zone, within special use airspace, or beneath a low-level flight path and would require the Governor, on or before January 1, 2005, to develop processes to resolve conflicts between the military, a local agency, or a project applicant when the proposed project may have the potential to adversely affect military readiness activities.

(2) The Planning and Zoning Law also requires each state agency and each local agency to compile one or more lists that specify in detail the information required from a project applicant as part of its statement of application for a development project and requires that copies of this information be made available to all project applicants and to any person who requests the information.

The bill would also revise the information required in the application by the project applicant when the proposed project is located ~~adjacent to~~ *within 1,000 feet of a military installation or facility, beneath a low-level flight path,* or within special use airspace and would require the public agency to provide a copy of the complete application to any branch of the United States Armed Forces, as specified. The bill would authorize any branch of the United States Armed Forces to request consultation with the public agency or the project applicant and would provide that the provisions referred to in this paragraph are ~~not required~~ *operative* until the Department of Defense provides *specified* electronic maps that identify military installations and special use airspace at a 1:400,000 scale and provides other related information. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill would also require the Office of Planning and Research, within 30 days of the receipt of the maps, to notify cities, counties, and cities and counties of the availability of these maps and the descriptions of special use airspace on the Internet.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Military ~~bases~~ *installations* and their mission are important to the California economy.

~~(2) The military needs special use airspace to train effectively.~~

(2) *The military needs military installations, low-level flight paths, and to train personnel and test weapons systems effectively.*

(3) The development of civilian land uses may impair the military's ability to train *and test weapons systems*.

(4) Creating a process to identify and assist in resolving potential conflicts between land uses and the military's need for *military installations, low-level flight paths, and* special use airspace is essential to California's public health, safety, and welfare.

(b) Accordingly, the Legislature finds and declares that it is the policy of the state to cooperate with the military to do all of the following:

(1) Consider the effects of civilian land uses that may be incompatible with the military's use of its assets.

(2) Create processes to resolve conflicts between civilian land uses and the military's use of its assets.

SEC. 2. Section 65352 of the Government Code is amended to read:

65352. (a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) Any city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) Any elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

1 (5) Any federal agency if its operations or lands within its
2 jurisdiction may be significantly affected by the proposed action,
3 as determined by the planning agency.

4 ~~(6) The branches of the United States Armed Forces that are in~~
5 ~~compliance with Section 65944 when the proposed action lies~~
6 ~~within military special use airspace or a low-level flight path as~~
7 ~~defined in Section 21098 of the Public Resources Code.~~

8 *(6) When the proposed action lies within special use airspace,*
9 *beneath a low-level flight path, or within 1,000 feet of a military*
10 *impact zone as defined in Section 21098 of the Public Resources*
11 *Code, the branches of the United States Armed Forces that have*
12 *provided the Office of Planning and Research with a California*
13 *mailing address pursuant to subdivision (d) of Section 65944.*

14 (7) Any public water system, as defined in Section 116275 of
15 the Health and Safety Code, with 3,000 or more service
16 connections, that serves water to customers within the area
17 covered by the proposal. The public water system shall have at
18 least 45 days to comment on the proposed plan, in accordance with
19 subdivision (b), and to provide the planning agency with the
20 information set forth in Section 65352.5.

21 (8) The Bay Area Air Quality Management District for a
22 proposed action within the boundaries of the district.

23 (b) Each entity receiving a proposed general plan or
24 amendment of a general plan pursuant to this section shall have 45
25 days from the date the referring agency mails it or delivers it in
26 which to comment unless a longer period is specified by the
27 planning agency.

28 (c) (1) This section is directory, not mandatory, and the failure
29 to refer a proposed action to the other entities specified in this
30 section does not affect the validity of the action, if adopted.

31 (2) To the extent that the requirements of this section conflict
32 with the requirements of Chapter 4.4 (commencing with Section
33 65919), the requirements of Chapter 4.4 shall prevail.

34 SEC. 3. Section 65404 of the Government Code is amended
35 to read:

36 65404. (a) On or before January 1, 2005, the Governor shall
37 develop processes to do all of the following:

38 (1) Resolve conflicting requirements of two or more state
39 agencies for a local plan, permit, or development project.

40 (2) Resolve conflicts between state functional plans.

(3) Resolve conflicts between state infrastructure projects.

~~(4) Provide for mediation between the military, a local agency, or a project applicant, when a proposed project may have the potential to adversely affect military readiness activities as defined in subdivision (a) of Section 65302.~~

(4) Provide, to the extent permitted under federal law, for the availability of mediation between a branch of the United States Armed Forces, a local agency, and a project applicant, in circumstances where a conflict arises between a proposed land use within special use airspace or low-level flight paths, or within 1000 feet of a military installation.

(b) The process may be requested by a local agency, project applicant, or one or more state agencies. The mediation process identified in paragraph (4) of subdivision (a) may also be requested by a branch of the United States Armed Forces.

SEC. 4. Section 65940 of the Government Code is amended to read:

65940. (a) Each state agency and each local agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943.

(b) The list of information required from any applicant shall include identification of whether the proposed project is located ~~adjacent to~~ *within 1,000 feet of* a military facility, beneath a low-level flight path *or within special use air space* as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944. ~~A city~~

(c) A city, county, or city and county that is not *entirely* beneath a low-level flight path or whose entire jurisdiction is within an urbanized area as defined in Section 65944 is not required to identify whether a project is ~~beneath~~ *within* a low-level flight path. Copies of the information, including the statement of application required by Section 65942, shall be made available to all applicants for development projects and to any person who requests the information.

~~(e)~~

1 (d) A city, county, or city and county shall not require a project
2 applicant to comply with the special use airspace provisions of
3 subdivision (b) if the entire jurisdiction is within an urbanized area
4 as defined in subdivision (e) of Section 65944.

5 (e) A city, county, or city and county shall not require a project
6 applicant to comply with the special use airspace provisions of
7 subdivision (b) if the project is proposed entirely within an
8 unincorporated area defined as an urbanized area pursuant to
9 subdivision (e) of Section 65944.

10 (f) (1) Subdivision (b) of this section as it relates to special use
11 airspace and urbanized areas shall not be ~~required~~ operative until
12 the United States Department of Defense provides electronic maps
13 of low-level flight paths and military installations at a scale of
14 1:400,000 that are available on a single ~~Department of Defense~~
15 Web site that is accessible to the public. *Additionally, the format*
16 *in which the maps are presented by the Department of Defense*
17 *must be able to be linked by the Office of Planning and Research*
18 *to a Web site.* The maps shall clearly identify sections, townships,
19 and ranges. The Web site shall also provide metes and bounds
20 descriptions of low-level flight paths. *A city, county, city and*
21 *county, or a project applicant shall base its notice that is required*
22 *by this section only on the information available on the Office of*
23 *Planning and Research Web site.*

24 (2) Within 30 days of receipt of the maps, the Office of
25 Planning and Research shall notify cities, counties, and cities and
26 counties of the availability of these maps as well as the availability
27 of the descriptions of special use airspace on the Internet.

28 SEC. 5. Section 65944 of the Government Code is amended
29 to read:

30 65944. (a) After a public agency accepts an application as
31 complete, the agency shall not subsequently request of an
32 applicant any new or additional information which was not
33 specified in the list prepared pursuant to Section 65940. The
34 agency may, in the course of processing the application, request
35 the applicant to clarify, amplify, correct, or otherwise supplement
36 the information required for the application.

37 (b) The provisions of subdivision (a) shall not be construed as
38 requiring an applicant to submit with his or her initial application
39 the entirety of the information which a public agency may require
40 in order to take final action on the application. Prior to accepting

1 an application, each public agency shall inform the applicant of
2 any information included in the list prepared pursuant to Section
3 65940 which will subsequently be required from the applicant in
4 order to complete final action on the application.

5 (c) This section shall not be construed as limiting the ability of
6 a public agency to request and obtain information which may be
7 needed in order to comply with the provisions of Division 13
8 (commencing with Section 21000) of the Public Resources Code.

9 (d) After a public agency accepts an application as complete,
10 and if the project applicant has identified that the proposed project
11 is located ~~adjacent to~~ *within 1,000 feet of* a military facility or
12 within special use airspace *or beneath a low-level flight path* in
13 accordance with Section 65940, the public agency shall provide a
14 copy of the complete application to any branch of the United States
15 Armed Forces that has provided the Office of Planning and
16 Research with a single California mailing address within the state
17 for the delivery of a copy of these applications.

18 (e) ~~The~~ *Except for a project within 1,000 feet of a military*
19 *installation or facility, the* public agency is not required to provide
20 a copy of the application if the project is located *entirely* in an
21 “urbanized area.” An urbanized area is any urban location that
22 meets the definition used by the United State Department of
23 Commerce’s Bureau of Census for “urban” and includes locations
24 with core census block groups containing at least 1,000 people per
25 square mile and surrounding census block groups containing at
26 least 500 people per square mile.

27 (f) Upon receipt of a copy of the application as required in
28 subdivision (d), any branch of the United States Armed Forces
29 may request consultation with the public agency or the project
30 applicant to discuss the potential *adverse* effects of the proposed
31 project on military facilities, *military installations, low-level*
32 *flight paths*, or special use airspace, ~~including the potential~~
33 ~~alternatives, mitigation measures, and any potential and~~
34 ~~significant effects on the environment that may be caused by the~~
35 ~~project.~~

36 (g) (1) Subdivisions (d), (e), and (f) of this section as these
37 relate to special use airspace and urbanized areas shall not be
38 ~~required~~ *operative* until the United States Department of Defense
39 provides electronic maps of low-level flight paths and military
40 installations at a scale of 1:400,000 that are available on a single

1 Department of Defense Web site that is accessible to the public.
2 The maps shall clearly identify sections, townships, and ranges.
3 The Web site shall also provide metes and bounds descriptions of
4 low-level flight paths. *Additionally, the format in which the maps*
5 *are presented by the Department of Defense must be able to be*
6 *linked by the Office of Planning and Research to a Web site.*

7 (2) Within 30 days of receipt of the maps, the Office of
8 Planning and Research shall notify cities, counties, and cities and
9 counties of the availability of these maps as well as the availability
10 of the descriptions of special use airspace on the Internet.

11 SEC. 6. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 a local agency or school district has the authority to levy service
14 charges, fees, or assessments sufficient to pay for the program or
15 level of service mandated by this act, within the meaning of
16 Section 17556 of the Government Code.

